IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 12TH MARCH 2007 / 21ST PHALGUNA 1928

WP(C).No. 7960 of 2007(V)

PETITIONER:

RAJESH, AGED 39 YEARS, S/O. BADAN SINGH,
RESIDING AT HOUSE NO.17, RAJEEV NAGAR,
MATHURA, UTHAR PRADESH.

BY ADV. SRI.P.PRATHAPACHANDRAN,
SMT.PRIYA DEVI.P.

RESPONDENTS:
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1. **THE COMMERCIAL TAX INSPECTOR,**
   COMMERCIAL TAX CHECK POST, WALAYAR,
   PALAKKAD DISTRICT.

2. **STATE OF KERALA, REPRESENTED BY**
   CHIEF SECRETARY, SECRETARIATE,
   THIRUVANANTHAPURAM.

BY SR. GOVT. PLEADER SRI. MOHAMMED RAFIQ.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/03/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.7960/2007:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE REGISTRATION CERTIFICATE ISSUED BY R.T.A. JIND.

EXT.P.2: COPY OF THE NATIONAL PERMIT ISSUED FROM THE OFFICE OF THE SECRETARY, RTA, JIND.

EXT.P.3: COPY OF THE DRIVING LICENCE ISSUED BY THE LICENSING AUTHORITY, MATHURA, (U.P).

EXT.P.4: COPY OF THE NOTICE NO. OR-414/06-07/B ISSUED BY THE R.1.

//TRUE COPY//

prv.

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 7960 OF 2007-V

JUDGMENT

The petitioner is the driver of a goods vehicle bearing registration No.HR 56/2768. Ext.P1 is the registration certificate issued by the R.T.A., Jind in Haryana. The petitioner submits, he was carrying Mortein Coils from Chandigarh to Trichy in Tamil Nadu. He wrongly noted the place as Thrissur in Kerala, instead of Trichy in Tamil Nadu and happened to cross over to Kerala at Walayar check-post. The goods along with the vehicle were detained at Walayar, for want of necessary documents and he has been served with Ext.P4 notice under Section 47(2) of the K.V.A.T. Act. The petitioner further submits, he knows only Hindi and therefore, by mistake he happened to enter Kerala. He prays, the vehicle and the goods may be released and he may be permitted to take back them to Tamil Nadu.

2. Heard the learned Government Pleader for the respondents also. According to him, it may be an attempt to transport the goods to Kerala clandestinely.

3. Normally, no person will carry goods without any documents through the check-post to Kerala. So, there may be some truth in the

submissions of the petitioner. At any rate, he wants the goods and the vehicle to be taken back. In entry tax cases, this Court has permitted the persons, who transported goods to Kerala, to take back them, in the face of exorbitant demand of entry tax. I think, the said principle can be followed in this case also. On production of a copy of this judgment, the 1st respondent shall allow the petitioner to take the above said vehicle along with the goods from Kerala to Tamil Nadu. The documents, if any, seized from the petitioner shall also be returned to him.

The Writ Petition is disposed of as above.

12th March, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/